

PREFACE

Exempt Organizations (EO) is dedicated to fulfilling the IRS mission to provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness. Customer Education & Outreach (CE&O) works closely with Exempt Organizations staff to accomplish this by:

- Developing tailored education programs for customer categories
- Coordinating the development, revision and design of forms, publications and other non-speaker outreach activities
- Making standardized educational materials available for outreach efforts
- Establishing a way for customers to be heard

This workshop and our materials are part of a customized program for representatives of small and medium-sized exempt organizations. We hope that this text helps you become more familiar with tax laws governing exempt organizations and understand how compliance with these laws will strengthen the organization(s) you represent.

The material in this book is for educational use only and may not be cited as precedent.

/s/ Lois G. Lerner

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Director, Exempt Organizations

CHAPTER 9

AUDIT, COMPLIANCE, and COMPLAINT PROCESSES

IRS Examination, Compliance Check, and Complaint Processes

IRS Exempt Organizations (EO) promotes voluntary compliance through its examination and compliance check programs. EO strives to ensure consistency and fairness in these programs. In its annual Implementing Guidelines, which are available on the IRS website at www.irs.gov/eo, EO describes its proposed examination and compliance check activities for the year.

EO is also highly responsive to complaints alleging the abuse of the tax-exempt status granted to certain organizations. See page 9-5 in this chapter for information about how EO handles complaints from the public about the activities of exempt organizations.

Examinations versus Compliance Checks

A review of a tax-exempt organization falls into one of two categories: compliance checks or examinations.

Examinations, also known as *audits*, are authorized under Section 7602 of the Code. For exempt organizations, an examination determines an organization's qualification for tax-exempt status. EO conducts two different types of examinations: correspondence and field (described below).

A *compliance check* is a review to determine whether an organization is adhering to recordkeeping and information reporting requirements. It is not an examination since it is not related to the determination of a tax liability for any particular period.

EO does not presume that an organization is violating the tax laws before it begins the examination or sends a compliance check letter.

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Correspondence Examination versus Field Examination

IRS examiners conduct audits of exempt organizations in various ways:

- Correspondence examination: The examiner conducts the audit orally or in correspondence with the organization's officers or representatives. These audits are often limited in scope, focusing on only one or two items on a return. On occasion, if the issues become complex or if the organization does not respond to correspondence efforts, EO may require representatives from the organization to bring their records to an IRS office. EO may also convert a correspondence examination into a field examination.
- Field examination: The examiner conducts the audit at the organization's place of business. Generally, these exams are the most comprehensive.

There are two distinct types of EO field examinations:

- (1) EO Team Examination Program for examinations which necessitate a team of specialists.
- (2) EO General Program, in which an examination is performed by an individual revenue agent.

The IRS typically uses team exams for the largest exempt organizations.

Initial Contact by the IRS

For field audits, the agent assigned to examine an organization will contact it by telephone or letter to schedule an initial appointment. The organization will receive Publication 1, *Your Rights as a Taxpayer*, with the appointment letter.

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Records for Field Examination

In the appointment letter, the examiner will specify the records he or she wants to have available at the beginning of the audit. These generally include:

- Governing instruments (articles of incorporation, charter or constitution, including all amendments; bylaws, including all amendments)
- Pamphlets, brochures and other printed literature describing the organization's activities
- Copies of Forms 990 for the years before and after the year under audit

For the year under examination (at a minimum):

- Minutes of meetings of the board of directors and standing committees or councils
- All books and records of assets, liabilities, receipts, and disbursements
- Auditor's report, if any
- Copies of other federal tax returns filed and any related work papers (Forms 990-T, 1120-POL, etc.)
- Copies of employment tax returns and any related work papers (Forms W-2, W-3, 941, 1096, 1099)

Many of these records may also be required for a correspondence examination.

Opening Conference and Initial Interview for Field Examination

During an opening conference with the organization's officers or representatives, the examiner will explain the audit plan he or she has developed and the reason the organization has been selected for audit.

The examiner will usually conduct a comprehensive interview and tour the organization's facilities to gain a basic understanding of its purposes and activities.

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Length of Field Examinations

The length of the examination depends upon several factors: including the size of the organization, the complexity of its activities and the issues that may arise during the examination. Some audits are completed in a few days, while others last for weeks or months.

Closing Conference for Field Examinations

Every field examination ends with a closing conference. The agent will discuss his or her findings and, if necessary, furnish a report explaining the results of the examination and any proposed adjustments to the organization's returns or exempt status.

If the organization disagrees with the examiner's findings, it may request a meeting with the examiner's manager to discuss the disagreement. If the manager cannot resolve the differences, the organization may pursue its case through the IRS appeals process.

For more information, see Publication 5, *Your Appeal Rights and How to Prepare a Protest If You Don't Agree* or Publication 892, *EO Appeals Procedure for Unagreed Issues*.

Compliance Checks

EO maintains an active compliance check program. EO specialists conduct the checks by corresponding with organization representatives. A specialist may inquire about an item on a return, determine if specific reporting requirements have been met, or whether an organization's activities are consistent with its stated tax-exempt purpose.

An officer or representative of any exempt organization may refuse to participate in a compliance check without penalty. However, EO has the option of opening a formal examination, whether or not the organization agrees to participate in a compliance check.

A compliance check is not an examination. Hence, it is possible to have more than one compliance check for a tax year if facts and circumstances warrant. For more information, see Publication 4386, *Compliance Checks*.

AUDIT, COMPLIANCE, and COMPLAINT PROCESSES,

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Public Complaints Related to Alleged Abuse of Tax-Exempt Status

The IRS gives serious consideration to complaints made alleging the abuse of the tax-exempt status granted to certain organizations.

A *complaint* (also called a referral) is any communication alleging that a tax-exempt organization is in potential noncompliance with the tax law. EO receives complaints from the general public, members of Congress, federal and state governmental agencies, as well as from other parts of the IRS. A referral of an exempt organization may be made by submitting Form 13909, *Tax-Exempt Organization Complaint (Referral) Form*.

After a referral is made, the IRS will send an acknowledgement letter to the referral source, unless it was made anonymously. Section 6103 of the Code prohibits the IRS from disclosing whether it has initiated an examination or the results of any examination. Therefore, the IRS cannot communicate with the original source of a referral beyond the acknowledgement letter. For details on the review process, see Fact Sheet 2008-13.

For More Information

- Fact Sheet 2008-13, *IRS Complaint Process for Tax-Exempt Organizations*
 - Fact Sheet 2008-14, *Examination and Compliance Check Processes for Exempt Organizations*
 - Form 13909, *Tax-Exempt Organization Complaint (Referral) Form*.
 - Publication 1, *Your Rights as a Taxpayer*
 - Publication 5, *Your Appeal Rights and How to Prepare a Protest If You Don't Agree*
 - Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*
 - Publication 4386, *Compliance Checks*
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Forms and Publications

You may order forms and publications by calling (800) 829-3676, or by downloading them from www.irs.gov/formspubs/.

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